

0001

1 IN THE UNITED STATES DISTRICT COURT
2
3 FOR THE DISTRICT OF MARYLAND

4
5 WYNDHOLME VILLIAGE, LLC., et al., *
6 Plaintiffs/Counter-Defendants, *
7 * CIVIL ACTION

8 vs. * NO. L01-3809
9 *
10 NADIF OF WYNDHOLME, LLC., et al., * VOLUME I
11 Defendants/Counter-Plaintiffs. * (Pages 1-256)

12 * * * * *

13 The deposition of JAMES M. LANCELOTTA was
14 taken on Thursday, January 16, 2003, commencing at
15 10:00 a.m., at Tydings & Rosenberg, 100 East Pratt
16 Street, Suite 2600, Baltimore, Maryland 21202,
17 before Alfred A. Betz, Notary Public.

18 * * * * *

19 Reported by:
20 Alfred A. Betz,

0115

1 A. As I told you, Mr. Fisher said he had
2 many access to cash, millions, from all different
3 avenues or sources. I guess they didn't know who
4 they were going to use yet.

5 Q. The gist of this provision is that
6 whatever the entity would be, it would either
7 facilitate a commitment for the construction
8 financing or -- and I'll quote in the middle of the
9 page -- in the event that a recognized lending
10 institution is not willing to issue such a
11 commitment, end quote, then whatever the entity is
12 would actually make the construction loan?

13 A. As I told you, the whole thing with them
14 was if they didn't provide the cash necessary to
15 build the first phase, there was no sense joining
16 partners. We were stuck in the mud.

17 Q. This is consistent with your recollection
18 of the initial meeting with these folks?

19 A. Oh, yeah. It was consistent the whole
20 time.

21 Q. But it would also be consistent of your

0245

1 A. Right.

2 Q. Was that correct?

3 A. Yes. They wouldn't take it.

4 Q. Is that right?

5 A. Yeah. I didn't have the financial

6 wherewithal for them, plus -- they wouldn't take

7 it.

8 Q. Okay. Do you recall whether it was

9 necessary that Leeds be satisfied that First

10 Mariner or somebody was going to come up with money

11 on this thing in September? I mean, keep in mind

12 that the bankruptcy, there was going to be a

13 reconvening of the hearing.

14 A. You're hitting a key point. They had to

15 believe, I mean everybody believed Fisher and crowd

16 and group were going to provide the money.

17 Regardless, whether either from a bank, here,

18 there, Pilevsky's pocket. I don't know. I mean, I

19 can't, in my mind now just common sense tells me

20 how in God's name would the bankruptcy court let

21 this thing go forward if they didn't think he had

0246

1 the wherewithal. You might say why did he have the
2 wherewithal? Anybody that puts \$2 million on the
3 table, that tells me I don't have to go check them
4 out. Somebody's putting \$2 million, which they
5 have, over there.

6 Q. But the term presented to the Court
7 wasn't a NADIF term sheet, it was a First Mariner
8 term sheet, right?

9 A. The court, the thing doesn't say anything
10 about what kind of term sheet it has -- I told you
11 this term sheet, this is a broad interpretation.

12 This is addressed to me, it's not even addressed to
13 NADIF. I mean, so the Court saw that. Christ,
14 they saw my name on there, didn't they?

15 MR. SCHULMAN: I'm going to instruct the
16 witness to watch --

17 A. I apologize.

18 MR. SAMMONS: It's getting a little late.

19 MR. SCHULMAN: -- I would say his
20 colorful emphasis.

21 Q. But your understanding of the venture

0318

1 representatives of NADIF had not contacted those
2 institutions about funding?

3 A. No. If they said they did, I can't
4 dispute that.

5 Q. The next sentence says, "Although Gotham
6 was prepared to partially collateralize the loan,
7 that was not enough for the institutions."

8 Is that a correct statement? Do you
9 remember any conversations about Gotham partially
10 collateralizing the loan?

11 A. I'll say it again. If I did what I was
12 supposed to do, the \$7 million was supposed to be
13 there. How they did it was not my concern.

14 Q. But, do you recall being involved in
15 discussions where you understood somebody else
16 was providing the funding but Gotham would
17 provide some collateralization for the funding?

18 A. I'll say it again. You know, that was
19 not my concern.

20 Q. Well, my question is do you recall being
21 involved in such discussions? Were you aware

0319

1 that Gotham offered to collateralize loans from
2 other lending institutions in order to get the deal
3 done?

4 A. It says it right here. I mean this is
5 what you're telling me here. It was "prepared
6 to partially collateralize." To refer to the
7 previous exhibit, you know, if they would fully
8 guarantee or pledge securities they would --
9 there might be an opportunity to finance this
10 transaction.

11 Q. But my question is specific to this
12 sentence I just read, where Mr. Fisher tells you
13 that Gotham was prepared to partially collateralize
14 the loan. And my question is, do you recall that
15 being a fact? Did you know at the time that Gotham
16 was prepared to partially collateralize the loan,
17 notwithstanding the fact that Gotham had made it
18 clear that they weren't going to be involved in
19 this project?

20 MR. SCHULMAN: Objection.

21 THE WITNESS: I don't know how to answer

0320

1 that. I'm going by what Fisher told me here. If
2 somebody told me that Gotham had \$500 million,
3 however they got me the \$7 million was their
4 business.

5 BY MR. SAMMONS:

6 Q. Well, let me ask you this question then.
7 Do you believe that Mr. Fisher was telling you
8 the truth when he said that Gotham was prepared
9 to partially collateralize the loan?

10 A. I have no reason to doubt what you're
11 saying. You know, I couldn't verify it either way.
12 If you ask me that question today, my answer might
13 be different.

14 Q. Well, what is your answer today?
15 A. I don't know if I would believe Fisher
16 today. Because based on the information I've seen,
17 he didn't have the authority to say this anyway.
18 That was news to me.

19 Q. Didn't have the authority to --
20 A. He said he was never a member of NADIF.
21 I always thought he was the managing partner who